

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 615

By: Crain

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5  
6 AS INTRODUCED

7 An Act relating to the Nontestamentary Transfer of  
8 Property Act; amending Section 5, Chapter 78, O.S.L.  
9 2008 (58 O.S. Supp. 2008, Section 1255), which  
10 relates to grantee interest subject to encumbrances;  
11 establishing exception to certain lien liability; and  
12 providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY Section 5, Chapter 78, O.S.L. 2008  
15 (58 O.S. Supp. 2008, Section 1255), is amended to read as follows:

16 Section 1255. A. Title to the interest in real estate recorded  
17 in transfer-on-death form shall vest in the designated grantee  
18 beneficiary or beneficiaries on the death of the record owner. The  
19 death of the record owner shall be evidenced by the recording of an  
20 affidavit in the office of the county clerk of the county where the  
21 real estate is located. The affidavit shall be executed by the  
22 grantee beneficiary or beneficiaries. The affidavit shall state the  
23 fact of the death of the record owner, state whether or not the  
24 record owner and the designated grantee were husband and wife, and

1 provide the legal description of the real estate. The affidavit  
2 shall be notarized. If the record owner and designated grantee were  
3 not husband and wife, a copy of the death certificate of the record  
4 owner and an estate tax release shall be attached to the affidavit.

5 B. Grantee beneficiaries of a transfer-on-death deed take the  
6 interest of the record owner in the real estate at death subject to  
7 all conveyances, assignments, contracts, mortgages, liens and  
8 security pledges made by the record owner or to which the record  
9 owner was subject during the lifetime of the record owner including,  
10 but not limited to, any executory contract of sale, option to  
11 purchase, lease, license, easement, mortgage, deed of trust or lien,  
12 and to any interest conveyed by the record owner that is less than  
13 all of the record owner's interest in the property; provided,  
14 however, no lien shall be effective against a grantee beneficiary  
15 until the expiration of the nine-month disclaimer period provided in  
16 subsection D of Section 1254 of this title, unless the beneficiary  
17 exerts dominion over the real estate within the nine-month period.

18 C. If a grantee beneficiary dies prior to the death of the  
19 record owner and an alternative grantee beneficiary has not been  
20 designated on the deed, the transfer shall lapse.

21 SECTION 2. This act shall become effective November 1, 2009.

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23 52-1-117 TEK 3/6/2009 5:40:04 AM

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